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Paper No. 1103

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WASHINGTON, DC 20037

NOV 20

In re Application of	:	
Yasuyoshi Yamada	:	
Application No. 09/435448	:	ON PETITION
Filed: November 22, 1999	:	
Attorney Docket No. Q56857	:	

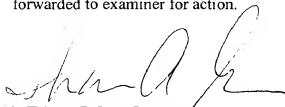
This is a decision on the petition, filed June 19, 2003, requesting that the finality of the Office action of May 20, 2003, be withdrawn.

The petition to withdraw the finality of the final Office action is GRANTED.

A petition was filed on June 19, 2003, to withdraw finality of the office action dated May 20, 2003. A nonfinal office action was mailed on August 19, 2002. In response, an amendment was filed on November 20, 2002. This amendment did not amend independent claim 1 and amended independent claim 7 to change "provided" to "arranged." This amendment also added new claims 13-18 and 20 which depend from claims 1 or 7. Petitioner alleges that the change to claim 7 was to correct an informality. Subsequently, a final office action was mailed on May 20, 2003 which introduced a new grounds of rejection for claims 1 and 7 under 35 U.S.C. 102(a) over JP 10-56093. Petitioner then filed arguments after final on August 20, 2003 alleging that the new grounds of rejection were not necessitated by amendment. To this, the office responded with the advisory action of September 25, 2003, which maintained the finality of the final office action and stated that the new grounds of rejection were presented in response to the addition of claims 13-18 and 20 which depends from claims 1 or 7. Therefore, the new rejection was to address the amendments. Petitioner then filed the petition of June 19, 2003.

A review of the application file record indicates that the new grounds of rejection for claims 1 and 7 was not necessitated by direct amendment of these claims. As MPEP § 706.07(a) states, a second or subsequent action will not be made final if it includes a rejection, on newly cited art, of any claim not amended by applicant in spite of the fact that other claims may have been amended to require the newly cited art. Amendment of the dependent claims in no way changed the scope of independent claims 1 and 7. Therefore, the petition to withdraw the finality of the office action of May 20, 2003, is hereby granted and the finality of that action is withdrawn.

Since the finality of the office action of May 20, 2003 is being withdrawn, the amendment filed August 20, 2003, will be entered. The application is being forwarded to the technical support staff for entry of the amendment of August 20, 2003. Subsequently, the application will be forwarded to examiner for action.

A handwritten signature in dark ink, appearing to read 'Sharon A. Gibson', is written over a horizontal line.

Sharon A. Gibson, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components

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